

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2013120084

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014020025

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 26, 2013, attorney Michael Zatopa filed a Request for Due Process Hearing with the Office of Administrative Hearings (OAH) on behalf of Student naming the San Francisco Unified School District (San Francisco). That matter was designated as OAH case number 2013120084 (First Case).

On January 31, 2014, attorney Damara Moore filed a Request for Due Process Hearing on behalf of San Francisco naming Student. That matter was designated as OAH case number 2014020025 (Second Case).

On January 31, 2014, San Francisco filed a Motion to Consolidate the First Case with the Second Case. OAH has not received a response from Student.

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interest of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Here, the First Case and Second Case involve common questions of fact and overlapping legal issues. Student's complaint contains a detailed chronological history from January 2012 relating to Student's unique needs, multiple individualized education program (IEP) meetings, IEP's between January 2012 and the filing of the complaint, and about Student's parent's requests of and disagreements with San Francisco relating to Student's needs. The complaint asserts procedural and substantive denials of a free appropriate public education (FAPE) for the 2013-2014 school year.

San Francisco identified one issue in its complaint, namely, whether it can implement its most recent IEP offer regarding goals, and speech and language services. Given the overlapping issues regarding whether San Francisco has offered and can provide Student a FAPE for the 2013-2014 school year, consolidation is appropriate.

In addition, consolidation furthers the interest of judicial economy because both cases involve the same parties and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve introducing the same or similar documents including relevant IEP's. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by the First Case, OAH case number 2013120084.

ORDER

1. San Francisco's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014020025, the Second Case, are vacated.
3. The consolidated cases shall now be heard on the dates currently set for the First Case. Namely, the PHC for the consolidated cases shall be held on February 24, 2014, at 10:00 a.m., and the due process hearing shall begin March 3, 2014, at 1:30 p.m., and continue day-to-day, Monday through Thursday, as needed and at the discretion of the Administrative Law Judge.

4. The 45-day timeline for issuing the decision in the consolidated cases shall be based on the date the complaint was filed in OAH Case Number 2013120084, the First Case.

Dated: February 7, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings